



State of Wisconsin  
Governor Scott Walker

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**Department of Agriculture, Trade and Consumer Protection**  
Ben Brancel, Secretary

**DATE:** November 1, 2012

**TO:** Board of Agriculture, Trade and Consumer Protection

**FROM:** Ben Brancel, Secretary *Ben Brancel*  
Steve Ingham, Division of Food Safety Administrator *Steve Ingham*

**SUBJECT:** Meat and Meat Food Products, ch. ATCP 55; Final Draft Rule

**PRESENTED BY:** Steve Ingham and Staff

**REQUESTED ACTION:**

At the November 14, 2012, Board meeting, the Department of Agriculture, Trade and Consumer Protection (DATCP) will ask the DATCP Board to approve a final draft rule (copy attached) related to ch. ATCP 55, Meat and Meat Food Products. This rule will allow certain selected Wisconsin state inspected meat establishments to sell meat and meat food products in other states. The department adopted an emergency rule which took effect on September 13, 2012, that has the same provisions as the proposed permanent rule.

**SUMMARY:**

*Background*

Wisconsin operates the nation's largest state meat and poultry inspection program, with more than 270 official licensed establishments. Twenty-seven states currently operate state meat and poultry inspection programs. All state-inspected Wisconsin meat and poultry establishments are very small as defined by the United States Department of Agriculture (USDA)) and fill an important niche in the state's economy. According to USDA, state meat and poultry inspection programs provide unique services to these very small establishments by "providing more personalized guidance to establishments in developing their food safety oriented operations." USDA provides half of the funding for state meat and poultry inspection programs.

State meat and poultry inspection programs operate under a cooperative agreement with USDA's Food Safety and Inspection Service (FSIS). Under this agreement, states must provide inspection services "at least equal to" federal meat inspection. Each program conducts a self-assessment annually and USDA FSIS conducts an on-site audit every three years to determine whether the program meets federal "at least equal to" requirements. Wisconsin's program currently meets these "at least equal to" standards and has met them since the program's inception.

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Currently state-inspected meat and poultry establishments may only sell their products within the state where the establishment is located. However, in May, 2011, USDA finalized rules that will allow some selected state-inspected meat and poultry establishments to sell their meat and poultry products in other states. To qualify for this program, known as the Cooperative Interstate Shipment (CIS) program, states must provide inspection at the selected establishments that is the "same as" (identical to) federal inspection. USDA will fund 60 percent of the state's costs for inspecting meat and poultry establishments selected to participate in the CIS program.

### ***Rule Content***

This proposed rule will revise ch. ATCP 55, Meat and Meat Food Products, to incorporate by reference federal regulations which create the CIS program and specify practices that ensure the state program operates the "same as" the federal program for establishments selected for the CIS program. These incorporated regulations address conditions and facilities required before inspection begins, use of the inspection legend and mark, processing inspection procedures, cooking lethality; destruction of trichinae in pork products; chilling, freezing, and thawing of poultry; canning and canned meat and poultry products, nutrition labeling, record-keeping and record retention, transportation of meat and meat food products, procedures for detention, seizure and condemnation of product, mandatory recall plans to be prepared by the meat establishment, and safe and suitable uses of ingredients.

In addition, the proposed rule will revise ch. ATCP 55 to include two exemptions from meat establishment licensing requirements. These exemptions are for establishments which make meat pizzas and ship them hot for sale by a non-profit organization, and establishments which make meat items at a central commissary and ship them for meal sales at restaurants owned by the same company. These exemptions have long been part of the federal regulations and have been honored as "common sense" policy by Wisconsin inspection program personnel because the establishments would already be licensed as restaurants under s. 254.74 Stats., or food processing establishments under s. 97.29 Stats.

### ***Fiscal Estimate***

This rule is not anticipated to have a significant fiscal impact on state operations and will have no impact on local governments. The Bureau of Meat Safety and Inspection expects that it will incur minimal costs to implement the CIS program since the Bureau already inspects meat and poultry establishments selected into the program using procedures deemed "at least equal to" the federal standards. In analyzing the final federal rule, USDA noted that states may incur some costs associated with processing and evaluating applications submitted by establishments requesting selection into the CIS program. Wisconsin may make some changes in procedures to meet "same as" federal inspection requirements, but the costs associated with these changes are minimal.

### ***Business Impact Analysis***

This rule will have a positive impact on small state-inspected meat and poultry establishments that choose to participate and are selected for the program. Currently, state-inspected meat and poultry establishments may only sell products in the state in which they are located. The department estimates 17 establishments will participate in the program within the first year, with more establishments joining the program over time. Participation in the CIS program will allow these state-inspected meat and poultry establishments to expand their markets from selling only in Wisconsin to potentially selling in all fifty states.

This rule will benefit the small Wisconsin state-inspected meat and poultry businesses affected by the rule. Negative effects, if any, will be few and limited, and businesses may choose not to participate in this voluntary program.

### ***Federal and Surrounding State Programs***

#### **Federal Programs**

The Federal Meat Inspection Act and the Poultry Products Inspection Act gave USDA FSIS the responsibility for ensuring the safety and wholesomeness of meat and poultry distributed in commerce for use as human food. FSIS inspects more than 6,200 establishments, conducting ante and post mortem slaughter inspection, inspection of meat and poultry food products and inspection of basic sanitation practices. FSIS also ensures that meat and poultry businesses meet labeling requirements and follow humane handling procedures during slaughter, as required by federal law. The agency also reviews Hazard Analysis and Critical Control Point (HACCP) systems. HACCP is a mandatory preventive system employed by each establishment for ensuring the safety of meat and poultry products.

Wisconsin's state meat and poultry inspection program operates under a cooperative agreement with FSIS. The Wholesome Meat Act of 1967 and the Wholesome Poultry Products Act of 1968 created state meat inspection programs under the authority of FSIS. FSIS ensures that state programs meet inspection standards that are "at least equal to" federal meat inspection standards. FSIS provides 50 percent of Wisconsin's program funding.

Until 2008, only meat and poultry establishments inspected by FSIS were allowed to sell products in interstate commerce. The 2008 Farm Bill authorized FSIS to create the CIS program, allowing selected state-inspected meat and poultry establishments to sell their products in interstate commerce. FSIS published final rules for the voluntary program in May 2011 and will provide oversight for the program to ensure that state meat inspection programs deliver inspection services that are the "same as" federal meat inspection. FSIS will provide states with 60 percent of the cost for inspecting those establishments that participate in the program.

### **Surrounding State Programs**

Illinois, Minnesota, and Iowa each operate a state meat inspection program. Currently, none of these states plan to participate in the CIS program. Michigan does not operate a state meat inspection program and is not qualified to participate in the CIS program. Any state that operates a state meat inspection program must meet federal requirements to provide services that are “at least equal to” federal inspection, including an expectation that states have regulations in place that are “at least equal to” federal meat and poultry inspection regulations. All neighboring states with a state meat inspection program meet these “at least equal to” requirements.” However, participation in the CIS program requires that states have a regulatory foundation that is the “same as,” rather than “at least equal to,” federal meat and poultry inspection regulations. The purpose of this rulemaking process is to ensure Wisconsin meets these “same as” requirements.

### ***Public Hearings***

DATCP held three public hearings on the following dates and locations:

October 15, 2012 Madison, Wisconsin  
October 18, 2012 Eau Claire, Wisconsin  
October 19, 2012 Green Bay, Wisconsin

Following the public hearings, the hearing record remained open until October 29, 2012 for additional written comments. No one attended the public hearings. The department received written and oral comments from USDA related to the development process of the Cooperative Agreement for the CIS program (See Appendix A).

### ***Changes from the Hearing Draft***

In response to USDA comments, technical changes were made to the list of federal regulations cited in the hearing draft. DATCP made minor editorial changes suggested by the Legislative Council Rules Clearinghouse.

### ***Next Steps***

If the Board approves this final draft rule, the department will transmit the final draft rule to the Governor for his written approval. After DATCP receives written approval from the Governor, DATCP will submit the rule to the Legislature for review by appropriate legislative committees. If the Legislature has no objections to the rule, the Secretary will sign the final rulemaking order and transmit it for publication.

## **Appendix A – Comment Summary**

### **Ch. ATCP 55, Meat and Meat Food Products**

**Rules Clearinghouse No. 12-040**

**DATCP Docket No. 11-R-10**

<b>Person/Organization</b>	<b>Position/Comments</b>
Mary Porretta, Policy Issuances Division Food Safety Inspection Service, USDA.	Comments requested further clarification about references to the Code of Federal Regulations (CFR) that USDA believed may have been erroneously omitted, as well as questions about apparent inconsistencies in the proposed rule. The department provided further clarification and the final proposed rule includes references to the CFR required to meet federal Cooperative Interstate Shipment (CIS) program requirements. USDA also suggested that the section on ratites (ATCP 55.07 (3) (a) (intro.)) include references to the Poultry Product Inspection Act identical to those listed in the section on poultry (ATCP 55.07 (2) (a)). The department incorporated those changes into the rule.

# Wisconsin Department of Agriculture, Trade and Consumer Protection

## Business Impact Analysis<sup>1</sup>

**Rule Subject:** Meat and Meat Products  
**Adm. Code Reference:** ATPCP 55  
**Rules Clearinghouse #:** 12-040  
**DATCP Docket #:** 11-R-10

### *Rule Summary*

Wisconsin operates the nation's largest state meat and poultry inspection program, with more than 270 official licensed establishments. State meat and poultry inspection programs operate under a cooperative agreement with the United States Department of Agriculture's (USDA) Food Safety and Inspection Service (FSIS). Under such an agreement, states must provide inspection services "at least equal to" federal meat and poultry inspection. State-inspected meat and poultry establishments may only sell their products within the state in which they are located. In May, 2011, USDA finalized rules that will allow some selected state-inspected establishments to sell their meat and poultry products in other states. To qualify for this program, known as the Cooperative Interstate Shipment (CIS) program, states must provide inspection that is the "same as" (identical to) federal inspection.

This rule provides the regulatory foundation needed for Wisconsin's state meat inspection program to participate in USDA's CIS program. This proposed rule will revise ch. ATPCP 55, Meat and Meat Food Products, to incorporate by reference federal regulations which create the CIS program and specify rules of practice that ensure the state program operates the "same as" the federal program when overseeing establishments selected for the CIS program.

### *Business Impact*

This rule will have a positive impact on small state-inspected meat and poultry establishments that choose to participate and are selected for the program. Currently, state-inspected meat and poultry establishments may only sell products in the state in which they are located. The department estimates 17 establishments will participate in the program within the first year, with more establishments joining the program over time. Participation in the CIS program will allow these state-inspected meat and poultry establishments to expand their markets from only selling in Wisconsin to all fifty states.

As part of the planning process for the CIS program, USDA expects establishments to incur a one-time start-up cost associated with filing an application, training employees,

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<sup>1</sup> This analysis includes, but is not limited to, a small business analysis ("regulatory flexibility analysis") under ss. 227.114 and 227.19(3)(e), Stats.



meeting regulatory performance standards, obtaining label approval, and implementing a food safety program that complies with all federal requirements. USDA expects some state-inspected establishments may need to make structural modifications to their facilities to meet federal requirements. Based on preliminary reviews of establishments expressing interest in participation in the program, the department anticipates that costs associated with these activities will be minimal. Most Wisconsin businesses will not need to change their business practices substantially to meet federal regulations. The department expects that establishments may incur minor costs related to revising labels to meet federal requirements. As a voluntary program, no Wisconsin state-inspected meat establishment will be required to make any change unless they volunteer to participate in the CIS program. Finally, there are no new or additional licensing fees to participate in the program.

### *Accommodation for Small Business*

Federal law requires participants in the CIS program to meet inspection requirements that are the "same as" federal meat inspection requirements. Wisconsin will not be able to provide flexibility from these federal regulations to small businesses. However, state-inspected meat and poultry businesses already meet federal regulations that are "at least equal to" federal requirements, which are not substantially different from "same as" requirements. In addition, the program is voluntary and no state-inspected meat or poultry business will be required to participate. Businesses may choose to continue to be inspected under the state meat inspection program and sell their products only within Wisconsin.

### *Conclusion*

This rule will benefit small Wisconsin state-inspected meat and poultry businesses affected by the rule. Negative effects, if any, will be few and limited, and businesses may choose not to participate in this voluntary program.

DATCP will, to the maximum extent feasible, seek voluntary compliance with this rule.

Dated this 30th day of October, 2012.

STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION

By Steven C. Ingham  
Steven C. Ingham, Administrator,  
Division of Food Safety

**PROPOSED ORDER  
OF THE WISCONSIN DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION  
AMENDING, CREATING AND ADOPTING RULES**

1 The Wisconsin Department of Agriculture, Trade, and Consumer Protection proposes an order *to*  
2 *amend* ss. ATCP 55.02 (24), 55.04 (title), (2) (title), (a), and (b), and (6), and 55.07 (1) (a)  
3 (intro.), (2) (a) (intro.), and (3) (a) (intro.); and *to create* ss. ATCP 55.02 (4m), 55.03 (2) (f),  
4 55.04 (1m), 55.06 (5) (j), and 55.07 (1) (c), (2) (d), and (3) (c) *relating to* allowing certain  
5 selected Wisconsin state-inspected meat establishments to sell meat and meat products in other  
6 states and affecting small business.

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**Analysis Prepared by the Department  
of Agriculture, Trade and Consumer Protection**

This proposed rule would implement federal regulations required for Wisconsin's state meat and poultry inspection program to meet United States Department of Agriculture (USDA) requirements for participation in the Cooperative Interstate Shipment (CIS) program. The CIS program will allow certain selected Wisconsin state-inspected meat and poultry establishments, which volunteer to participate in the program, to sell meat, poultry, and meat and poultry products in other states.

***Statutes Interpreted***

Statute Interpreted: s. 97.42, Stats.

***Statutory Authority***

Statutory Authority: ss. 93.07 (1), 97.09 (4), and 97.42 (4) (j), Stats.

***Explanation of Agency Authority***

DATCP has broad general authority, under s. 93.07 (1), Stats., to adopt rules to implement programs under its jurisdiction. DATCP also has general authority under s. 97.09 (4), Stats., to adopt rules specifying standards to protect the public from the sale of adulterated or misbranded



foods and specific authority under s. 97.42 (4) (j), Stats., to establish rules to regulate the slaughter and processing of animals and poultry for human consumption.

### ***Related Statutes or Rules***

Wisconsin's state meat and poultry inspection program is governed by ch. 97, Stats. (Food Regulation), including s. 97.42, Stats. (Compulsory inspection of animals, poultry and carcasses). Chapter ATP 55 interprets and implements ch. 97, Stats., as it relates to Meat and Meat Food Products.

State meat and poultry inspection programs operate under a cooperative agreement with the USDA's Food Safety and Inspection Service (FSIS) to provide inspection services to small and very small meat establishments. State meat and poultry inspection programs were established by the Wholesome Meat Act of 1967 and the Wholesome Poultry Products Act of 1968, which amended the Federal Meat Inspection Act (FMIA) to create 21 USC 661 and the Poultry Products Inspection Act (PPIA) to create 21 USC. 454. Section 11015 of Title XI of the Food, Conservation, and Energy Act of 2008 (the 2008 "Farm Bill"), enacted on June 18, 2008, amended FMIA and PPIA to establish a new voluntary program that will allow certain selected state-inspected meat establishments to sell their products in interstate commerce.

Title 9, Animal and Animal Products, of the Code of Federal Regulations (CFR) interprets and implements the federal FMIA and PPIA. Section 97.42 (4m), Stats., and ss. ATP 55.06 (2), (3), (4), and (5) (d), and 55.07 (1), (2), and (3), adopt certain relevant sections of 9 CFR 309, 311, 313 to 315, 318, and 319, which relate specifically to inspection of meat and meat food products, 9 CFR 307, 310, 317, 416, 417, 430, 441, and 442 which relate to meat and poultry and food products and 9 CFR 381, Subparts G, I, J, K, L, O, and P which relate specifically to poultry and poultry products inspection.

### ***Plain Language Analysis***

#### **Background**

Wisconsin operates the nation's largest state meat and poultry inspection program, with more than 270 official licensed establishments. Twenty-seven states currently operate state meat and poultry inspection programs. All state-inspected Wisconsin meat and poultry establishments are very small (as defined by USDA) and fill an important niche in the state's economy. According to USDA, state meat and poultry inspection programs provide unique services to these small establishments by "providing more personalized guidance to establishments in developing their food safety oriented operations." USDA provides half of the funding for state meat and poultry inspection programs.

State meat and poultry inspection programs operate under a cooperative agreement with USDA FSIS. Under this agreement, states must provide inspection services "at least equal to" federal meat inspection. Each program conducts a self-assessment annually and USDA FSIS conducts an on-site audit every three years to determine whether the program meets federal "at least equal to" requirements. Wisconsin's program currently meets these "at least equal to" standards and has met them since the program's inception.

State-inspected meat and poultry establishments may currently sell their products only within the state where the establishment is located. However, in May, 2011, USDA finalized rules that allow some selected state-inspected meat and poultry establishments to sell their meat and poultry products in other states. To qualify for the CIS program, states must provide inspection that is the “same as” (identical to) federal inspection. USDA will fund 60 percent of the state’s costs for inspecting meat and poultry establishments selected to participate in the CIS program.

This proposed rule will revise ch. ATCP 55, Meat and Meat Food Products, to incorporate by reference federal regulations creating the CIS program. The proposed rule will also incorporate by reference federal regulations that specify practices the state program must follow to operate the “same as” the federal program in establishments selected for the CIS program. These incorporated regulations address: conditions and facilities required before inspection begins, use of the inspection legend and mark, processing inspection procedures, cooking lethality; destruction of trichinae in pork products; chilling, freezing, and thawing of poultry; canning and canned meat and poultry products, nutrition labeling, record-keeping and record retention, transportation of meat and meat food products, procedures for detention, seizure and condemnation of product, mandatory recall plans to be prepared by the meat establishment, and safe and suitable uses of ingredients.

In addition, the proposed rule will revise ch. ATCP 55 to include, through incorporation of federal regulations by reference, two exemptions from meat establishment licensing requirements. These exemptions are for establishments which make meat pizzas and ship them hot for sale by a non-profit organization, and establishments which make meat items at a central commissary and ship them for meal sales at restaurants owned by the same company. These exemptions have long been part of the federal regulations and have been honored as “common sense” policy by Wisconsin inspection program personnel because the establishments would already be licensed as restaurants under s. 254.74 Stats., or food processing establishments under s. 97.29 Stats.

***Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of an Economic Impact Analysis.***

This rule is not anticipated to have a significant fiscal impact on state operations and will have no fiscal impact on local governments. The Bureau of Meat Safety and Inspection expects that it will incur minimal costs to implement the CIS program since the Bureau already inspects meat and poultry establishments selected into the program using procedures deemed “at least equal to” the federal standards. In its analysis of the final federal rule, USDA noted that states may incur some costs associated with processing and evaluating applications submitted by establishments requesting selection into the CIS program. Wisconsin may make some changes in procedures to meet “same as” federal inspection requirements, but the costs associated with these changes are minimal. A complete Economic Impact Analysis is attached.

### ***Effect on Small Business***

This rule will have a positive impact on very small state-inspected meat and poultry establishments that choose to participate and are selected for the program. The department estimates 17 establishments will participate in the program in the first year of its operation. Participation in the CIS program will allow these state-inspected meat and poultry establishments to expand their markets from selling only in Wisconsin to all fifty states. USDA expects establishments to incur a one-time start-up cost associated with filing an application, training employees, meeting regulatory performance standards, obtaining label approval, and implementing a food safety program. Furthermore, some state-inspected establishments may need to make structural modifications to their facilities to comply with all federal requirements. The department anticipates costs associated with these activities to be minimal and likely to be offset by increased sales in a larger market area.

Wisconsin will not be able to provide flexibility to small businesses in complying with federal regulations. By complying with state regulations under a program deemed to be “at least equal to” the federal program, these businesses are essentially meeting most of the federal regulations the state program will adopt in administering a program deemed to be the “same as” the federal program. Small and very small meat and poultry establishments (as defined by USDA) in Wisconsin that choose to operate under federal inspection are already complying with the federal regulations. In addition, the CIS program is voluntary and no state-inspected meat or poultry business will be required to participate.

### ***Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations.***

The FMIA and the PPIA gave USDA FSIS the responsibility for ensuring the safety and wholesomeness of meat and poultry distributed in commerce for use as human food. FSIS inspects more than 6,200 establishments, conducting ante and post mortem slaughter inspection, inspection of meat and poultry food products and inspection of basic sanitation practices. FSIS also ensures that meat and poultry businesses follow labeling and humane handling procedures during slaughter, as required by federal law. The agency also reviews Hazard Analysis and Critical Control Point (HACCP) systems. HACCP is a system employed by each establishment for preventing contamination and ensuring the safety of meat and poultry products.

Wisconsin’s state meat and poultry inspection program operates under a cooperative agreement with FSIS. The Wholesome Meat Act of 1967 and the Wholesome Poultry Products Act of 1968 created state meat inspection programs under the authority of FSIS. FSIS ensures that state programs meet inspection standards that are “at least equal to” federal meat inspection standards. FSIS provides 50 percent of Wisconsin’s program funding.

Until 2008, only meat and poultry establishments inspected by FSIS were allowed to sell products in interstate commerce. The 2008 Farm Bill authorized FSIS to create the CIS program, allowing selected state-inspected meat and poultry establishments to sell their products in interstate commerce. FSIS published final rules for the voluntary program in May 2011 and will provide oversight for the program to ensure that state meat inspection programs deliver inspection services that are the “same as” federal meat inspection. FSIS will provide states with 60 percent of the cost for inspecting those establishments that participate in the program.

### *Comparison with Rules in Adjacent States*

Michigan currently does not operate a state meat and poultry inspection program and is not eligible to participate in the CIS program. Minnesota, Iowa and Illinois do operate state meat inspection programs, but these states do not plan to participate in the CIS program at this time. Illinois’ state meat inspection program includes USDA’s Federal-State Cooperative program (formerly known as the “Talmadge-Aiken” program). Under this program, state inspectors conduct federal inspections, and the inspected establishments are thereby allowed to sell their products in interstate commerce. Unlike the CIS program where meat establishments will continue to be operated under the state meat inspection program, meat establishments in the Federal-State Cooperative program are considered to be federally-inspected.

### *Summary of Factual Data and Analytical Methodologies*

The Bureau of Meat Safety and Inspection surveyed Wisconsin state-inspected meat and poultry establishments that previously expressed interest in participating in the CIS program, to gauge their level of interest and the range of products the establishments hope to produce in the CIS program. The Bureau reviewed information about state meat inspection programs and contacted surrounding states to determine the extent to which each state plans to participate in the CIS program.

### *Agency Contact Person*

Questions and comments related to this rule may be directed to:

Cindy Klug, Director  
Bureau of Meat Safety and Inspection  
Department of Agriculture, Trade and Consumer Protection  
P.O. Box 8911  
Madison, WI 53708-8911  
Telephone: (608) 224-4729  
E-Mail: [Cindy.Klug@Wisconsin.gov](mailto:Cindy.Klug@Wisconsin.gov)

***Place Where Comments are to be Submitted and Deadline for Submission***

Comments on the proposed rule could be submitted to the following individual until October 29, 2012:

Cindy Klug, Director  
Bureau of Meat Safety and Inspection  
Department of Agriculture, Trade and Consumer Protection  
P.O. Box 8911  
Madison, WI 53708-8911  
Telephone: (608) 224-4729  
E-Mail: [Cindy.Klug@Wisconsin.gov](mailto:Cindy.Klug@Wisconsin.gov)

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1           **SECTION 1.** ATPC 55.02 (4m) is created to read:

2           ATPC 55.02 (4m) "Cooperative interstate shipment program" means the program under  
3           which an establishment licensed and inspected under this chapter and complying with applicable  
4           requirements in 9 CFR 321 and 332, or applicable requirements of 9 CFR 381, Subparts R and Z,  
5           is allowed to distribute and sell in interstate commerce meat or poultry products manufactured  
6           bearing the mark of inspection authorized under s. ATPC 55.06 (5) (j).

7           **SECTION 2.** ATPC 55.02 (24) is amended to read:

8           ATPC 55.02 (24) "Poultry" means domesticated fowl commonly used for human food,  
9           including domesticated chickens, turkeys, geese, ducks, guinea fowl and squab. "Poultry" does  
10          not include ~~ratites or~~ captive game birds.

11          **SECTION 3.** ATPC 55.03 (2) (f) is created to read:

12          ATPC 55.03 (2) (f) A retail establishment qualifying for an exemption under 9 CFR  
13          303.1 (d) (2) (iv) (c) or (e) (1) or 9 CFR 381.10 (d) (1) or (e) (1).

14          **SECTION 4.** ATPC 55.04 (title) is amended to read:

15          ATPC 55.04 (title) **Slaughter and processing inspection; general.**

1  
2       **SECTION 5.** ATCP 55.04 (1m) is created to read:

3       ATCP 55.04 (1m) PROCESSING INSPECTION REQUIRED. (a) No person operating a  
4       licensed meat establishment may sell any meat food product unless that meat food product is  
5       labeled as provided in s. ATCP 55.10 (3).

6       (b) Paragraph (a) does not apply to meat food products processed at a retail establishment and  
7       sold only to individual consumers at that establishment.

8       **SECTION 6.** ATCP 55.04 (2) (title), (a), and (b), and (6) are amended to read:

9       ATCP 55.04 (2) (title) SLAUGHTER AND PROCESSING INSPECTION PROVIDED TO LICENSED  
10       MEAT ESTABLISHMENTS.

11       (a) The department shall provide ante mortem and post mortem slaughter inspection  
12       services and processing inspection services to operators of meat establishments licensed under s.  
13       ATCP 55.03. The department may not provide slaughter or processing inspection services to  
14       other persons.

15       (b) A meat establishment operator requesting slaughter or processing inspection services  
16       shall submit the request to the department in writing, and shall specify a proposed slaughter or  
17       processing schedule according to s. ATCP 55.03 (12) (b). The department may require a  
18       different schedule, as provided in s. ATCP 55.03 (12) (c). The meat establishment operator may  
19       not deviate from the specified schedule without prior department approval, as provided in s.  
20       ATCP 55.03 (12) (d).

21       (6) SLAUGHTER AND PROCESSING INSPECTION PROCEDURES. Slaughter and processing  
22       inspection procedures shall comply with this chapter, including ss. ATCP 55.05 to 55.07 and



1 applicable federal requirements as specified in 9 CFR 305, 309, 310, 316, 318, 321, 329, 332,  
2 416, 417, and 500, and 9 CFR 381, Subparts E, J, K, M, O, R, U, Y, and Z.

3 **SECTION 7.** ATPCP 55.06 (5) (j) is created to read:

4 ATPCP 55.06 (5) (j) The official inspection mark at a licensed establishment selected for  
5 participation in the cooperative interstate shipment program shall comply with the requirements  
6 of 9 CFR 332 or 9 CFR 381, Subpart Z as applicable.

7 **SECTION 8.** ATPCP 55.07 (1) (a) (intro.) is amended to read:

8 ATPCP 55.07 (1) (a) (intro.) A meat establishment operator who does any of the following  
9 shall comply with applicable federal standards under 9 CFR ~~parts 307 to, 309, 310, 311, 313 to~~  
10 315, 317, 318, 319, 320, 325, 416, 417, 418, 424, 430, 441, and 442, and 500:

11 **SECTION 9.** ATPCP 55.07 (1) (c) is created to read:

12 ATPCP 55.07(1) (c) A meat establishment operator who does any of the activities in par.  
13 (a) and whose establishment is selected for participation in the cooperative interstate shipment  
14 program shall comply with applicable federal standards under 9 CFR 321 and 332.

15 **SECTION 10.** ATPCP 55.07 (2) (a) (intro.) is amended to read:

16 ATPCP 55.07 (2) (a) A meat establishment operator who does any of the following shall  
17 comply with applicable requirements under 9 CFR 416, 417 ~~and, 418, 424, 430, 441, and~~  
18 ~~subparts 442, and 500, and 9 CFR 381, Subparts G, H, I, J, K, L, N, O, and, P of 9 CFR 381, Q,~~  
19 R, S, X, Y, and Z:

20 **SECTION 11.** ATPCP 55.07 (2) (d) is created to read:

21 ATPCP 55.07 (2) (d) A meat establishment operator who does any of the activities in par.  
22 (a), and whose establishment is selected for participation in the cooperative interstate shipment  
23 program, shall comply with applicable federal standards under 9 CFR 381, Subparts S and Z.

1  
2  
3       **SECTION 12.** ATCP 55.07 (3) (a) (intro.) is amended to read:

4       ATCP 55.07 (3) (a) (intro.) A meat establishment operator who does any of the following  
5 shall comply with applicable requirements under 9 CFR 416 ~~and~~, 417, 418, 424, 430, 441, 442,  
6 and 500 and ~~subparts~~ 9 CFR 381, Subparts G, H, I, J, K, L, N, O, and P ~~of 9 CFR 381, Q, R, S,~~  
7 X, Y, and Z:

8       **SECTION 13.** ATCP 55.07 (3) (c) is created to read:

9       ATCP 55.07 (3) (c) A meat establishment operator who does any of the activities in par.  
10 (a), and whose establishment is selected for participation in the cooperative interstate shipment  
11 program, shall comply with applicable federal standards under 9 CFR 381, Subparts S and Z.

12       **SECTION 14. EFFECTIVE DATE:** This rule shall take effect on the first day of the month  
13 following publication in the Wisconsin administrative register, as provided under s. 227.22 (2)  
14 (intro.) Stats.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

WISCONSIN DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION

By \_\_\_\_\_  
Ben Brancel, Secretary

## ADMINISTRATIVE RULES

### Fiscal Estimate & Economic Impact Analysis

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1. Type of Estimate and Analysis

☒ Original ☐ Updated ☐ Corrected

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2. Administrative Rule Chapter, Title and Number

ATCP 55, Meat and Meat Products

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3. Subject

Revision of ATCP 55, Meat and Meat Products, to meet federal requirements allowing the interstate sales of state-inspected meat and poultry products

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4. Fund Sources Affected

☒ GPR ☒ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule

☒ No Fiscal Effect ☐ Increase Existing Revenues ☐ Increase Costs  
☐ Indeterminate ☐ Decrease Existing Revenues ☐ Could Absorb Within Agency's Budget  
☐ Decrease Cost

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7. The Rule Will Impact the Following (Check All That Apply)

☐ State's Economy ☐ Specific Businesses/Sectors  
☐ Local Government Units ☐ Public Utility Rate Payers  
☐ Small Businesses (if checked, complete Attachment A)

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8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

☐ Yes ☒ No

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9. Policy Problem Addressed by the Rule

Wisconsin operates the nation's largest state meat and poultry inspection program, with more than 270 official licensed establishments. Twenty-seven states currently operate state meat and poultry inspection programs. All state-inspected Wisconsin meat and poultry establishments are very small (as defined by USDA) and fill an important niche in the state's economy. According to USDA, state meat and poultry inspection programs provide unique services to these small plants by "providing more personalized guidance to establishments in developing their food safety oriented operations." USDA provides half of the funding for state meat and poultry inspection programs.

State meat and poultry inspection programs operate under a cooperative agreement with USDA FSIS. Although state meat inspection procedures may vary from federal inspection, states must provide inspection services "at least equal to" federal meat inspection. Each program conducts a self-assessment annually and USDA FSIS conducts an on-site audit every three years to determine whether the program meets federal "at least equal to" requirements. Wisconsin's program currently meets these "at least equal to" standards and has met them since the program's inception.

Currently state-inspected meat and poultry establishments may only sell their products within the state where the establishment is located. However, in May, 2011, USDA finalized rules that will allow some selected state-inspected meat and poultry establishments to sell their meat and poultry products in other states. To qualify for this program, known as the Cooperative Interstate Shipment (CIS) program, states must provide inspection that is the "same as" (identical to) federal inspection. USDA will fund 60 percent of the state's costs for inspecting meat and poultry establishments selected to participate in the CIS program.

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This proposed rule will revise ch. ATCP 55, Meat and Meat Food Products, to incorporate by reference federal regulations creating the CIS program and specifying practices that ensure the state program operates the "same as" the federal program in establishments selected for the CIS program.

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10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

This rule primarily impacts those very small state-inspected establishments that choose to participate and meet the requirements of the voluntary CIS program. This rule will have a minimal impact on very small state-inspected establishments that choose not to participate in the CIS program, by updating section headings and adopting appropriate sections of federal regulations that are followed in operating the existing state inspection program. All state-inspected meat establishments in Wisconsin, along with members of the Wisconsin Association of Meat Processors (WAMP), were contacted and asked to comment on the economic impact of the rule.

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11. Identify the local governmental units that participated in the development of this EIA.

None. Local governmental units are not impacted by this rule.

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12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

#### Businesses and Business Sectors

This rule will have a positive impact on very small (as defined by USDA) state-inspected meat and poultry establishments in Wisconsin that choose to participate and are selected for the program. The department estimates that 17 establishments will participate in the program in the first year of its operation and that the number of establishments participating in the program may grow in the future. Participation in the CIS program will allow these state-inspected meat and poultry establishments to expand their markets from selling only in Wisconsin to all fifty states. USDA expects establishments to incur one-time start-up costs associated with filing an application, training employees, meeting regulatory performance standards, obtaining label approval and implementing a food safety program that complies with all federal requirements. USDA also expects some state-inspected establishments may need to make structural modifications to their facilities to meet federal requirements. Since state-inspected meat and poultry establishments are already meeting requirements that are "at least equal to" federal requirements, the department anticipates these costs will be minimal and will be offset by increased sales in a larger market area. There will be no additional licensing fees to participate in the CIS program beyond the cost of a license currently required to operate a meat or poultry business. Changes to the rule designed to ensure the program meets "same as" requirements will not impact the way state-inspected meat establishments not participating in the program are inspected.

#### State's Economy

The rule will benefit the state's economy by allowing very small state-inspected meat and poultry establishments to increase sales. These increased sales will benefit the local economy of state-inspected meat and poultry establishments, many of which are located in Wisconsin's rural communities. The rule will also benefit farmers by providing access to new markets for their meat and poultry products, while allowing the farmers to transport their animals to local slaughter and processing establishments.

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#### **Local Governmental Units and Public Utility Rate Payers**

The rule will have no impact on local governmental units or public utility rate payers.

#### **Economic Impact Analysis Comments**

DATCP posted the proposed rule online as required under Wis. Stat. § 227.137 and solicited comments from all state-inspected meat establishments and the Wisconsin Association of Meat Processors (WAMP). The department received three comments, all supportive of the rule changes needed to ensure participation in the CIS program. Two comments described the positive impact the CIS program would have on their businesses. One business noted that they have had to turn down orders from stores and restaurants from across the U.S. almost weekly because they cannot currently sell their products in interstate commerce. They state that, "going forward with the regulation changes will allow my company alone to create several full time position, several part time positions, and put tens of thousands of dollars into the state's small-scale farming economy every month, and a sizable amount of investment into our facility, which is in an economically disadvantaged area in the city of Milwaukee." Another business owner described how the CIS program will have a very positive impact on her business, allowing her to deliver her product throughout the midwest. A third business owner described how he had considered pursuing federal inspection for his product, but felt that state inspection personnel have been more helpful and preferred to pursue participation in the CIS program.

#### **Fiscal Impact**

This rule is not anticipated to have a fiscal impact on state operations and will have no impact on local governments. The Bureau of Meat Safety and Inspection expects that it will incur minimal costs to implement the CIS program since the Bureau already inspects meat and poultry establishments selected into the program using procedures deemed "at least equal to" the federal standards. In analyzing the final federal rule, USDA noted that states may incur some costs associated with processing and evaluating applications submitted by establishments requesting selection into the CIS program. Wisconsin may make some changes in procedures to meet "same as" federal inspection requirements, but the costs associated with these changes are minimal. The state program gained additional inspector positions in the current biennium to meet the "same as" requirement. Program and workload analysis will continue to be provided to assess future needs.

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#### **13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule**

Implementing this rule will be beneficial to Wisconsin's small state-inspected meat and poultry businesses. These rule changes are required for Wisconsin to participate in USDA's CIS program, which will allow certain selected state-inspected meat and poultry establishments to sell their products in interstate commerce. Since state-inspected meat establishments are already meeting requirements that are "at least equal to" federal requirements, these rule changes will not impose any new regulatory burden on state-inspected meat establishments in Wisconsin.

#### **Alternative to Implementing the Rule**

If these rules are not adopted, USDA may determine that Wisconsin cannot participate in the CIS program, thereby preventing Wisconsin's state-inspected meat and poultry establishments from selling their products in interstate commerce.

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#### 14. Long Range Implications of Implementing the Rule

There are no long range fiscal implications of implementing the rule. In the long run, the rule changes will benefit very small state-inspected meat and poultry businesses in Wisconsin by allowing them to expand their market into other states.

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#### 15. Compare With Approaches Being Used by Federal Government

The Federal Meat Inspection Act and the Poultry Products Inspection Act gave USDA FSIS the responsibility for ensuring the safety and wholesomeness of meat and poultry distributed in commerce for use as human food. FSIS inspects more than 6,200 establishments, conducting ante and post mortem slaughter inspection, inspection of meat and poultry food products and inspection of basic sanitation practices. FSIS also ensures that meat and poultry businesses meet labeling requirements and follow humane handling procedures during slaughter, as required by federal law. The agency also reviews Hazard Analysis and Critical Control Point (HACCP) systems. HACCP is a preventive system employed by each establishment for ensuring the safety of meat and poultry products.

Wisconsin's state meat and poultry inspection program operates under a cooperative agreement with FSIS. The Wholesome Meat Act of 1967 and the Wholesome Poultry Products Act of 1968 created state meat inspection programs under the authority of FSIS. FSIS ensures that state programs meet inspection standards that are "at least equal to" federal meat inspection standards. FSIS provides 50 percent of Wisconsin's program funding.

Until 2008, only meat and poultry establishments inspected by FSIS were allowed to sell products in interstate commerce. The 2008 Farm Bill authorized FSIS to create the CIS program, allowing selected state-inspected meat and poultry establishments to sell their products in interstate commerce. FSIS published final rules for the voluntary program in May 2011 and will provide oversight for the program to ensure that state meat inspection programs deliver inspection services to CIS participants that are the "same as" (identical to) federal meat inspection. FSIS will provide states with 60 percent of the cost for inspecting those plants that participate in the program.

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#### 16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Any state that operates a state meat inspection program must meet federal requirements to provide services that are "at least equal to" federal inspection, including an expectation that states have regulations in place that are "at least equal to" federal meat and poultry inspection regulations. Participation in the CIS program requires that states have a regulatory foundation that is the "same as", rather than "at least equal to", federal meat and poultry inspection regulations. The following describes state meat inspection regulations in neighboring states:

**Illinois-** Illinois statutes mandate the adoption by reference of federal regulations; some provisions from federal regulations (Sanitation Standard Operating Procedures, Biotype I E. coli testing) are reproduced in whole and without citation in the statute. In the Illinois rules, federal regulations are adopted by reference, with an additional limitation of scope and definitions to intrastate commerce in Illinois.

**Iowa-** Iowa has adopted applicable sections of the federal meat and poultry inspection regulations by reference into their administration rules, but, is statutorily limited to applying them within the scope of intra-state commerce. Iowa statute states that goal of the regulations is to ensure that the Iowa program requirements are at least equal to those of the federal program. Iowa regulations contain several definitions which are altered from the federal regulations so that they only apply within the state of Iowa.

**Michigan -** Michigan does not operate a state meat inspection program and is not qualified to participate in the CIS program.



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Minnesota - Minnesota statutes require rules development such that its program requirements are "at least equal to" federal meat and poultry inspection program requirements. Minnesota rules do not adopt federal requirements by reference.

17. Contact Name Cindy Klug, Director Bureau of Meat Safety and Inspection Department of Agriculture, Trade and Consumer Protection P.O. Box 8911 Madison, WI 53708-8911	18. Contact Phone Number (608) 224-4729
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This document can be made available in alternate formats to individuals with disabilities upon request.

## **ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis**

### **ATTACHMENT A**

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**1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)**

These rule changes adopt federal regulations that establish the Cooperative Interstate Shipment (CIS) program and formally adopts current practice into rule to provide the regulatory foundation required under federal law to allow certain small state meat inspected businesses to participate in the CIS program and sell their products in interstate commerce. The rule will have a positive economic impact on small meat establishments that meet requirements and choose to participate in the CIS program. This rule will not have a fiscal impact on other state-inspected meat establishments because they already meet requirements that are "at least equal to" federal regulations and these rule changes will not impact inspection practices for these plants.

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**2. Summary of the data sources used to measure the Rule's impact on Small Businesses**

The department reviewed data USDA collected and analyzed as part of their rulemaking process regarding the potential impact of the federal rule authorizing the CIS program on small businesses. In addition, the department sent a questionnaire to state inspected meat establishments in Wisconsin that expressed interest in the CIS program to provide these businesses with information about program requirements and determine the extent to which these businesses were still interested in applying for the program.

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**3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?**

- ☒ Less Stringent Compliance or Reporting Requirements
- ☒ Less Stringent Schedules or Deadlines for Compliance or Reporting
- ☒ Consolidation or Simplification of Reporting Requirements
- ☒ Establishment of performance standards in lieu of Design or Operational Standards
- ☒ Exemption of Small Businesses from some or all requirements
- ☒ Other, describe:

All of the above steps have been considered, but cannot be taken, as the rule incorporates federal regulatory requirements that must be met to participate in the CIS program. However, this program is completely voluntary on the part of the small business and so no undue economic impact will be imposed on those establishments that choose to participate. Inspection practices will not change for those establishments that do not choose to participate in the program.

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**4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses**

Small businesses that participate in this program must meet federal requirements and Wisconsin cannot modify those requirements. However, the CIS program is voluntary and meat establishments will be able to make their own assessment as to whether it is profitable for their business to participate.

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**5. Describe the Rule's Enforcement Provisions**

This rule does not change enforcement provisions for state-inspected meat establishments. They will be the same as what already exists for the small meat businesses currently holding our license.

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6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

☐ Yes ☒ No

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